

## §5.4

## 17 CFR Ch. I (4–1–12 Edition)

is required to register as a commodity trading advisor;

(ii) Any associated person of a commodity trading advisor, as defined in §5.1(e)(2) of this part, is required to register as an associated person of a commodity trading advisor;

(4)(i) Any person registered as a futures commission merchant:

(A) That is not primarily or substantially engaged in the business activities described in section 1a(28)(A)(i)(I)(aa)(AA) of the Act and section 1a(28)(A)(i)(II) of the Act insofar as that section references the activities described in section 1a(28)(A)(i)(I)(aa)(AA);

(B) That solicits or accepts orders from any person that is not an eligible contract participant in connection with any retail forex transaction; and

(C) That accepts money, securities, or property (or extends credit in lieu thereof) in connection with such solicitation or acceptance of orders in order to engage in retail forex transactions, is required to register as a retail foreign exchange dealer;

(ii) Any associated person of a futures commission merchant described in paragraph (a)(4)(i) of this section is required to register as an associated person of a futures commission merchant;

(5)(i) Any introducing broker, as defined in §5.1(f)(1) of this part, is required to register as an introducing broker;

(ii) Any associated person of an introducing broker, as defined in §5.1(f)(2) of this part, is required to register as an associated person of an introducing broker;

(6)(i) Any retail foreign exchange dealer, as defined in §5.1(h)(1) of this part is required to register as a retail foreign exchange dealer;

(ii) Any associated person of a retail foreign exchange dealer, as defined in §5.1(h)(2) of this part, is required to register as an associated person of a retail foreign exchange dealer;

(b) Any person described in paragraph (a) of this section that is already registered in the required capacity specified in paragraph (a) is not required under this section to register twice in the same capacity; Provided, however, that a person already reg-

istered as an associated person of one class of registrant may also be required to register as an associated person of another class of registrant in order to comply with this section.

[75 FR 55432, Sept. 10, 2010, as amended at 76 FR 56106, Sept. 12, 2011]

### **§5.4 Applicability of part 4 of this chapter to commodity pool operators and commodity trading advisors.**

Part 4 of this chapter applies to any person required pursuant to the provisions of this part 5 to register as a commodity pool operator or as a commodity trading advisor. Failure by any such person to comply with the requirements of part 4 will constitute a violation of this section and the relevant section of part 4.

### **§5.5 Distribution of “Risk Disclosure Statement” by retail foreign exchange dealers, futures commission merchants and introducing brokers regarding retail forex transactions.**

(a) Except as provided in §5.23 of this part, no retail foreign exchange dealer, futures commission merchant, or in the case of an introduced account no introducing broker, may open an account that will engage in retail forex transactions for a retail forex customer, unless the retail foreign exchange dealer, futures commission merchant or introducing broker first:

(1)(i) In the case of a retail foreign exchange dealer or a person required to register as an introducing broker solely by reason of this part, furnishes the retail forex customer with a separate written disclosure statement containing only the language set forth in paragraph (b) of this section and the disclosure required by paragraph (e) of this section;

(ii) In the case of a futures commission merchant or a person required to register as an introducing broker because it engages in the activities described in §1.3(mm) of this chapter, furnishes the retail forex customer with a separate written disclosure statement containing only the language set forth in paragraph (b) of this section and the disclosure required by paragraph (e) of this section; *Provided, however*, that the disclosure statement may be attached